

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Connecticut Department of Public
Utility Control Petition for Delegation
of Additional Authority to Implement Area
Code Conservation Measures

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File No. NSD-L-99-62

CC Dkt. No. 96-98

Comments of Omnipoint Communications, Inc.

Omnipoint Communications, Inc. ("Omnipoint"), by its attorneys, respectfully submits its comments in response to the Commission's August 5, 1999 Public Notice in the above-referenced proceeding, which requested comments concerning the request of the Connecticut Department of Public Utility Control ("CTDPUC") for additional authority to implement number conservation measures. Specifically, the CTDPUC wishes for the Commission to delegate it the authority to require: (1) thousand block number pooling; (2) the reclamation of unused NXX codes and thousand number blocks; and (3) the auditing carriers' use of requested and assigned numbering resources. For the reasons shown below, Omnipoint continues to oppose all such requests until the Commission has issued uniform, national guidelines governing number conservation.

I. The Connecticut DPUC's Request Duplicates Matters That Are Already Under Consideration by the Commission

As the CTDPUC is well aware, the Commission is already considering a wide range of number conservation measures in its current rulemaking in CC Docket 99-200. These issues specifically include whether states such as Connecticut should be delegated

the authority to implement conservation measures such as number pooling, code reclamation, and audits, and the extent to which the Commission should continue to maintain centralized authority over numbering issues. In fact, prior to filing the petition that initiated the current proceeding, the CTDPU filed comments with the Commission demanding that the states be delegated the same authority it is now seeking “in advance” of any federal rules, standards or delegations to the states.¹

The CTDPU justifies its petition for “advance” authority by stating that while number conservation measures “will do little to slow the exhaust of telephone numbers in the 860 and 203 NPAs,” it still wishes to implement mandatory number pooling, code reclamation and audits so that “NXX codes can be issued to carriers in a more conservative and efficient manner” when it introduces new NPAs in the future.²

The Commission should reject this request. The CTDPU has not proven that any emergency exists that would justify the delegation of further numbering authority to it. In fact, the CTDPU does not even claim that a true numbering crisis currently exists in Connecticut. As the CTDPU plainly states, it is seeking authority to conserve NPAs that may be issued in the future, once the existing 860 and 203 area codes are exhausted.³ This is clearly not an urgent claim, and does not justify the inefficiencies and costs – both for the NANPA and for the carriers operating in Connecticut – if the CTDPU was

¹ See CTDPU Petition at 6 (requesting authority to require mandatory number pooling “in advance of any federal rules.”)

² See CTDPU Petition at 5.

³ See CTDPU Petition at 5.

allowed to craft its own conservation measures in advance of the Commission's upcoming decisions in CC Docket 99-200.

For that reason, Omnipoint believes that the issues and claims raised in the CTDPUC petition should be addressed as part of the Commission's closely-related rulemaking in CC Docket 99-200, rather than as a separate proceeding. Likewise, Omnipoint encourages the Commission not to consider the number conservation issues raised in the CTDPUC petition in isolation, but rather in light of their very, very close relation to the comments and factual record established in CC Docket 99-200.

II. The Commission Must Ensure That Conservation Measures Continue to be Governed by Uniform, National Conservation Policies

The Commission must ensure that numbering issues continue to be governed by uniform, national policies, and must not let the system to devolve into a state-by-state patchwork of different conservation policies. For this reason, the Commission should not grant states such as Connecticut any additional authority to implement number conservation measures until it has finished establishing such standards and guidelines.

Omnipoint opposes the CTDPUC's requests that it be given additional authority to implement its own policies of thousand block number pooling, the reclamation of unused NXX codes and thousand number blocks; and the auditing of carriers, prior to the issuance of the Commission's rules on these methods. As Omnipoint has previously commented⁴ –

⁴ See Omnipoint Comments to the Petitions by California, Massachusetts, New York, Maine, and Florida for Additional Authority to Implement Telecommunications Numbering Conservation Methods, NSD File Nos. L-98-136/L-99-19/L-99-21/L-99-27/L-99-33, at 1-5 (filed July 16, 1999)(“Omnipoint State Comments”); see also Omnipoint Comments in CC Dkt. 99-200, at 2-5 (filed July 30, 1999)(“Omnipoint Numbering Comments”).

and as the Commission has itself concluded in the past⁵ -- the establishment of uniform, national standards will prevent the decentralization of the national numbering system, preserve its unified administration by the North American Numbering Plan Administrator ("NANPA"), and maintain the Commission's ability to design and implement long-term plans and policies for extending the life of the NANP.

As Omnipoint has also demonstrated in the past, uniform numbering policies are critical to the continued development of a competitive market.⁶ New market entrants such as Omnipoint are currently struggling to gain sufficient number resources to serve their customers, and are wasting large amounts of time, money and human capital in doing so.⁷ Wireless providers such as Omnipoint have in some instances been forced to seek extraordinary numbering relief from state regulators simply to meet ordinary demand for new service, let alone periods of peak demand.⁸ In light of these conditions, the Commission must reform the current numbering system so that it does not obstruct competition, pursuant to its obligations under Section 253(d) of the Telecommunications Act of 1996 ("1996 Act").⁹

⁵ See Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215 and 717; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Memorandum Opinion and Order and Order on Reconsideration, 1998 FCC LEXIS 5036 (1998) at ¶ 21, citing In the Matter of Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois, Declaratory Ruling and Order, 10 FCC Record 4596, 4602 (1995) ("Ameritech Order").

⁶ See Omnipoint Numbering Comments at 2-5.

⁷ Id.

⁸ Id.

⁹ As such, the Commission must assure that any number conservation measures that are taken must: (1) facilitate competition in the telecommunications marketplace by

To prevent these inefficient and anticompetitive conditions from worsening, the Commission must continue to prevent states such as Connecticut from implementing short-term or experimental number conservation measures in the absence of uniform, national policies.¹⁰ Permitting the states to formulate and implement their own solutions in the absence of a central plan would decentralize the current numbering system, creating a state-by-state checkerboard of policies.¹¹ Such a system would be extremely difficult for the NANPA to coordinate, and it would also complicate the Commission's work in implementing its own number conservation policies in the future.¹² Moreover, since wireless providers generally serve multi-state licensed areas, they will suffer serious compliance problems if the states are allowed to adopt uncoordinated and inconsistent numbering policies.¹³

making number resources available to carriers both quickly and efficiently; (2) not unduly favor or disfavor any particular industry segment or group of consumers; and (3) not unduly favor one telecommunications technology over another. See 47 C.F.R. § 52.9(a).

¹⁰ See Omnipoint State Comments at 1-5.

¹¹ Id.

¹² Id.

¹³ As the Commission is aware, wireless providers generally operate in multi-state licensed areas based on either Major Trading Areas ("MTAs") or Basic Trading Areas ("BTAs"). Cellular carriers serve either Metropolitan Statistical Areas ("MSAs") which are also multi-state, or Rural Service Areas ("RSAs") which are state-specific. The local Mobile Switching Centers ("MSCs") and associated peripheral systems which wireless providers use to serve these regions invariably serve customers in multiple states. Programming the MSCs to behave one way in State A and yet another way in State B is cumbersome, technically problematic, and extremely expensive. Consequently, if individual states are allowed to pick and choose from a wide menu of conservation methods – and do so in the absence of standard, well-defined requirements -- such improvisation will substantially increase the cost of the vendor-developed software for the MSCs. Such results would drive up the costs of providing wireless services and hamper their development, and would harm both carriers and consumers without

It is therefore essential that the Commission must respond to the current shortages of numbering resources not by empowering state regulators such as the CTDPU to implement a non-uniform and uncoordinated system of state-by-state relief programs. Instead, as the Commission recognizes in its pending rulemaking in CC Dkt. 99-200, long-term solutions and uniform, national rules should be implemented before any additional number conservation measures are attempted at the state level.

**III. The Commission Should Reconsider
Employing Wireless-Only Overlays and
Technology-Specific Overlays As Conservation Methods**

As an alternative to the measures proposed by the CTDPU, Omnipoint proposes once more that the Commission reconsider its rule barring the use of wireless-only or technology-specific overlays as conservation methods.¹⁴

As Omnipoint has previously demonstrated, wireless-only overlays or technology-specific overlays are a particularly efficient means of resolving numbering shortages, since they are implemented on a state-wide basis or on the basis of MTA boundaries. Unlike other conservation methods, they also promise an immediate solution for wireless providers, which are at once a significant portion of the industry¹⁵ and which

providing any corresponding benefit to the numbering system. See Omnipoint Numbering Comments at 4.

¹⁴ See Omnipoint Numbering Comments at 19-22; see also Omnipoint State Comments at 6-12.

¹⁵ Wireline carriers are competing for the same customers – and a new customer for one carrier is a lost customer for another. Wireline carriers are growing at a rate of 3 to 5 percent each year. In contrast, wireless providers are attracting large number of new subscribers and are growing at a net rate of 20 to 30 percent each year. See Omnipoint State Comments at FN 11.

are comparatively blameless for the current number resource shortages.¹⁶ As a wireless carrier, Omnipoint has therefore concluded that wireless-only or technology-specific overlays are no more discriminatory, inherently anti-competitive, nor any more harmful to consumers than the current rate center methodology.¹⁷

For this reason, Omnipoint continues to support the use of wireless-only overlays in the absence of any finalized number conservation methodology guidelines, and requests that the Commission modify its decision in the Ameritech Order, which was codified in 47 C.F.R. § 52.19 (c)(3)(i). While the Ameritech Order sought to protect wireless providers at a time when the full record on efficient wireless industry number utilization was not known, it is now appropriate for the Commission to revisit this ruling.¹⁸

Omnipoint continues to recommend that the Commission specifically consider the following parameters for NPA-wide or state-wide overlays as means of addressing area code exhaust and number resource conservation: (a) mandatory assignment of NXXs from a new overlay code to wireless providers, paging carriers and carriers provisioning dedicated fax and data lines; (b) mandatory requirement that all new wireless handsets be assigned to the new overlay code; and (c) Commission forbearance from the mandatory ten-digit dialing requirement for all dialing within the existing or new NPAs as a result of the implementation of such a non-traditional overlay.¹⁹

¹⁶ See LNP Forbearance Order at ¶ 47.

¹⁷ Id.

¹⁸ See Omnipoint State Comments at 10.

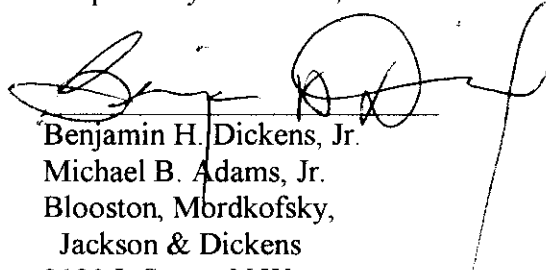
¹⁹ See Omnipoint Numbering Comments at 19.

Omnipoint also recommends that wireless providers be asked to use commercially prudent methods to vacate their existing NXXs and return such NXXs to the NANPA for subsequent reassignment. Under no circumstances, however, should wireless providers be forced to make such NXX returns through measures such as number pooling.

IV. Conclusion

For the foregoing reasons, Omnipoint encourages the Commission to reject the CTDPU's petition, and to continue to refrain from permitting state regulators any additional authority to implement number conservation methods until it has issued uniform, national guidelines concerning such measures.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Benjamin H. Dickens, Jr.", is written over a horizontal line. The signature is stylized with a large, circular loop at the end.

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September 7, 1999

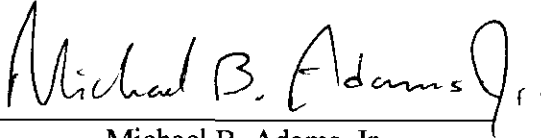
CERTIFICATE OF SERVICE

I, Michael B. Adams, Jr., hereby certify that I am an attorney with the law firm of Blooston, Mordkofsky, Jackson & Dickens and that a copy of the foregoing **“COMMENTS OF OMNIPOINT COMMUNICATIONS, INC.”** was served this 7th day of September, 1999, by messenger to the persons listed below.

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